

MARKETS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALLSTAR MARKETING GROUP, LLC,

Plaintiff,

-against-

THE NORTHWEST COMPANY, LLC, ROSS
AUERBACH, SHADY MAPLE
SMORGASBOARD, INC., JR'S SPORTS
COLLECTIBLES, INC., SPORTS STATION,
INC., FCW STORES, LLC, and
KRAIGYCO, INC.,

Defendants.

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DOC #: _____
DATE FILED: <u>3/23/11</u>

Case No.: 10 CV 01613 (VM)

**JUDGMENT ON CONSENT
WITH RESPECT TO SHADY
MAPLE SMORGASBOARD, INC.**

Plaintiff Allstar Marketing Group, LLC ("Allstar") having filed a complaint (the "Complaint") against Shady Maple Smorgasboard, Inc. ("Shady Maple") charging Shady Maple with false designation of origin, unfair competition and false advertising and trademark dilution under the Lanham Act, 15 U.S.C. §1051 et seq. and related causes of action under the laws of the State of New York (the "Complaint"); and the parties having agreed to the entry of an Order and Judgment Upon Consent with respect to the permanent injunctive relief sought in the Complaint; it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. This Court has jurisdiction over the parties and over the subject matter hereof pursuant to 28 U.S.C. §§ 1331, 1338 and 1367.
2. Shady Maple and its respective officers, directors, agents, servants, employees, attorneys, representatives, affiliates, subsidiaries, licensees, successors, assigns, and

all those acting for it or on its behalf, or acting in concert or privity with it, are permanently enjoined and restrained, directly or indirectly, from the following:

(a) Using or displaying the SNUGGIE trademark or any confusingly similar variation thereof including, but not limited to, by displaying the SNUGGIE mark on Shady Maple's website having URLs www.shadymaplegifts.com in connection with the sale of sleeved fleece blanket products that are not genuine SNUGGIE brand sleeved fleece blanket products, provided that nothing in this Order shall be deemed to enjoin Shady Maple from use of Allstar's SNUGGIE trademark in connection with genuine SNUGGIE products in connection with legitimate comparative advertising and/or any other "fair use" of the SNUGGIE mark, as "fair use" is defined by the relevant trademark case law in the federal courts of the Second Circuit.

(b) Using or displaying the designations "As Seen on TV" or "TV" on Shady Maple's website or adjacent to promotional materials for or in connection with sleeved fleece blanket products not advertised on television, except that Shady Maple shall not be enjoined from displaying such designations if the supplier or manufacturer of the sleeved blanket product in connection with which the designations are used has represented to Shady Maple that the product has in fact been advertised on television or if Shady Maple has independent knowledge of the product being advertised on television;

(c) shipping to customers sleeved fleece blanket products that have not been advertised on television in packaging bearing the designations "As Seen on TV" or "TV," except that Shady Maple shall not be enjoined from shipping products in packaging bearing such designations if the supplier or manufacturer of a sleeved blanket product in connection with which the designations are used has represented to Shady Maple that the product has in fact been

advertised on television or if Shady Maple has independent knowledge of the product being advertised on television; and,

(d) Otherwise improperly using Allstar's SNUGGIE trademark or otherwise suggesting an association or affiliation with or sponsorship or endorsement by Allstar of sleeved fleece blanket products marketed and sold by Shady Maple that are not genuine SNUGGIE brand sleeved fleece blanket products.

3. The Complaint shall be dismissed with respect to Defendant Shady Maple.

Consented to:


^{per}
Dated: January 21, 2011

BOEGGEMAN, GEORGE & CORDE, P.C.

By: _____
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*Attorneys for Plaintiff, Allstar Marketing
Group, LLC*

advertised on television or if Shady Maple has independent knowledge of the product being advertised on television; and,

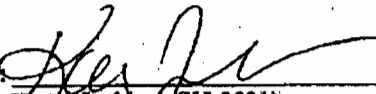
(d) Otherwise improperly using Allstar's SNUGGIE trademark or otherwise suggesting an association or affiliation with or sponsorship or endorsement by Allstar of sleeved fleece blanket products marketed and sold by Shady Maple that are not genuine SNUGGIE brand sleeved fleece blanket products.

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*Attorneys for Plaintiff, Allstar Marketing
Group, LLC*

SO ORDERED:

22 March 2011


USDJ
Victor Marrero